

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 94-304-W - ORDER NO. 95-151✓
JANUARY 26, 1995

IN RE: Application of Upstate Heater Utilities,) ORDER DENYING
 Inc. for Approval of an Increase in its) REHEARING AND
 Water Rates and Charges.) RECONSIDERATION

This matter comes before the Public Service Commission of South Carolina (the Commission) on the January 13, 1995 Petition for Rehearing and Reconsideration of our Order No. 94-1279, filed by Upstate Heater Utilities, Inc. (Upstate or the Company). For the reasons elucidated below, this Petition must be denied as to all points raised.

First, Upstate alleges that the Commission erroneously utilized test year per books level of expenses rather than the adjusted levels presented by the Company and the Commission Staff (the Staff) in the case. It should be noted that our State Supreme Court has given this Commission a wide range of discretion in utility rate cases, as long as that discretion has factual support. See, Hamm v. South Carolina Public Service Commission, ___ S.C. ___, 368 S.E.2d 911 (1988). An examination of the present case reveals that the adjustments referred to by the Company may actually balance out leaving the per book numbers as the appropriate figures to be considered in this case. Upstate

notes that the per book numbers may actually reflect 13 months rather than 12 months of electric expense for one of the wells, due to the dates the electric bills were paid by particular customers. See, Petition for Rehearing and Reconsideration of Order No. 94-1279 at 2. On the other hand, Upstate notes that it did not have a full 12 months of purchased water bills during the test year, and had to make an adjustment to correct to the ongoing level. See, Petition for Reconsideration and Rehearing, p. 3.

Further, Upstate complains about negative income taxes, which were actually adjusted to zero, being included in the per book figures. Again, the Commission believes upon the examination of the figures in the case, that the positive and negative adjustments balance out to the point where they have no strong effect on the finances of the Company. Therefore, in the exercise of discretion granted to us through the statutes of the General Assembly and by the Supreme Court, we believe that the test year per book levels of expenses was the correct measure of the expenses in this particular case.

Consequently, the 1.19% operating margin as stated by this Commission in Order No. 94-1279 was correct. We held in that Order, that the operating margin was sufficient to assure confidence in the financial soundness of the utility, and to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duty. Bluefield Water Works and Improvement Company v. Public Service Commission of West Virginia, 262 U.S. 679 (1923); Federal Power Commission v.

Hope Natural Gas Company, 320 U.S. 591 (1944).

The testimony of the witnesses supports the Commission's position that Upstate has had no difficulty in raising capital with the present operating margin. The cross-examination of William E. Grantmyre, President of the Company by Intervenor Chester G. Kapp, showed that Upstate has had no difficulty borrowing needed capital on the basis of the operating margin established in May 1992. Furthermore, it was brought out that the operating margin is a minor factor in attracting capital because Upstate is part of Heater Utilities, Inc. Consequently, since current water rates produce a positive operating margin after debt service, an additional operating margin may be said to simply increase the Company's return.

Further, the South Carolina Supreme Court has mandated that we consider the quality of water when setting appropriate rates for the Company. See, Seabrook Island Property Owners Association v. South Carolina Public Service Commission, 303 S.C. 493, 401 S.E.2d 672 (1991). We believe that the customers at the public hearing, were representative of Upstate's entire system. Serious water quality problems seemed to occur in a number of the systems owned by this utility. Despite some conflicting testimony, we give greater weight to the testimony of the residents of the area, than to the other evidence in this case. We further believe that we correctly construed the testimony of Company witness Jerry Tweed, when we stated in Order No. 94-1279, that the Company admitted the quality of the water is poor. There is no question

that the Company is attempting to buy bulk water to serve certain systems within its ownership. This is a simple admission. It may behoove the Company to seek to purchase more bulk water to improve the quality of the water in its system.

Further, there is no authority that the Company must fail to comply with applicable water quality regulations before the Commission can deny a rate increase based on poor quality of water. The Heater of Seabrook case gives no such direction, nor do we believe the Patton decision changes our viewpoint in this regard. Therefore, the Commission has examined the entire matter and the record of this case, and based on the reasoning stated above, we believe that the Petition for Rehearing and Reconsideration of Order No. 94-1279, filed by Upstate must be denied on all points.

IT IS THEREFORE ORDERED THAT:

1. The Petition for Rehearing and Reconsideration of Order No. 94-1279, filed by Upstate Heater Utilities, Inc., is hereby denied.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)